



U.S. Department of Justice

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September 22, 2006

Diane Smith
Clerk's Office
United States District Court
1 Courthouse Way
Boston, MA 02210

Re: United States ex rel. Ven-A-Care v. Dey, Inc., Civil Action No. 05-11084-MEL

Dear Ms. Smith:

This letter will identify the defendants whose names should be disclosed on the docket of this case. Other entities whose names presently appear on the docket sheet should be removed because they are not defendants in this case. The present case consists of claims that were severed from two predecessor cases and consolidated in this case, plus claims against additional related defendants added by the government's complaint filed on August 24, 2006 (Docket # 184), all as described below. All of the claims involve essentially the same conduct; and all of the defendants are part of one corporate family.

1. The present case first originated in the United States District Court for the Southern District of Florida. As indicated in Docket #169, the Florida court severed and transferred to the District of Massachusetts the claims against the following five defendants:

Dey, Inc.
EMD Pharmaceuticals
Lipha, S.A.
Merck KGaA
Merick-Lipha, S.A.

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The claims against these five defendants are set forth in Docket #171, which consists of the Clerk's Notice of Transfer and the accompanying redacted Fourth Amended Complaint. Claims against all other defendants in the Florida case were not transferred to Massachusetts, and so their names should not appear as defendants in this case.

2. Pursuant to a June 26, 2006, Order in a different but related case having a similar caption, Civil Action No. 00-10698-MEL (see Docket # 76 in that case), claims in No. 00-10698-MEL against the following defendants were severed and consolidated with the instant Civil Action No. 05-11084-MEL:

Dey, Inc.
EM Pharma, Inc.
EMD Pharmaceuticals, Inc.
Lipha, S.A.
Merck-Lipha, S.A.
Merck KGaA

These claims are set forth in the redacted Third Amended Complaint that is Docket #180. Claims against all other defendants in Civil Action No. 00-10698-MEL were not severed and transferred, and so their names should not appear as defendants in this case.

3. Finally, on August 24, 2006, the United States filed a further complaint in this case (No. 05-11084, Docket #184) against the following defendants:

Dey, Inc.
Dey L.P.
Dey L.P., Inc.


In sum, the defendants identified in paragraphs 1, 2, and 3 above should be identified on the public docket; they are the only defendants to this case, and any other entities who appear as defendants in the other cases should not appear as defendants in this case (those defendants' names are generally under seal in the other cases). In sum, the consolidated list of companies whose names should appear as defendants in this case are:

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Dey, Inc.
Dey L.P.
Dey L.P., Inc.
EMD Pharmaceuticals
EM Pharma, Inc.
Lipha, S.A.
Merck KGaA
Merck-Lipha, S.A.

I hope the above is helpful in clarifying the status of this case. Please call me if you have any questions.

Sincerely,



George B. Henderson, II
Assistant U.S. Attorney